

## Message Text

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TO SECSTATE WASHDC PRIORITY 1194

INFO AMEMBASSY MEXICO

UNCLAS SECTION 1 OF 2 TIJUANA 0012

E.O. 11652: N/A

TAGS: CASC

SUBJ: CASE REVIEW OF AMERICAN PRISONERS IN MEXICO

REF: STATE 281646

1. FOLLOWING IS SUMMARY OF ACTION TAKEN BY CONGEN AND ACHIEVEMENTS IN OUR CONSULAR DISTRICT REGARDING TREATMENT OF AMERICAN PRISONERS IN MEXICO.

A. CONGEN NOT NORMALLY EXPERIENCING DELAYS IN NOTIFICATION OF ARRESTS IN TIJUANA SINCE WE VISIT STATE AND FEDERAL POLICE OFFICES AND TIJUANA MUNICIPAL JAIL ON DAILY BASIS. HOWEVER, DELAYS IN NOTIFICATION ARE BEING EXPERIENCED IN CITIES OF ENSENADA, MEXICALI AND LA PAZ WHICH ARE LOCATED FROM 65 TO 1000 MILES FROM CONGEN. ENSENADA MUNICIPAL JAIL SENDS US REGULAR NOTIFICATION OF ARRESTS BY MAIL BUT THESE ARRIVE TOO LATE TO BE OF VALUE. WE HAVE ASKED ALL MUNICIPAL JAILS AND STATE AND FEDERAL POLICE OFFICES TO TELEPHONE US COLLECT UPON ARREST OF ANY AMERICAN CITIZEN BUT IS TOO EARLY TO ESTIMATE RESULTS OF OUR REQUEST. MEXICALI MUNICIPAL JAIL HAS INFORMED CONGEN WE WILL BE INFORMED IMMEDIATELY IF AMERICAN ARRESTED. ALL FEDERAL DISTRICT ATTORNEYS IN OUR CONSULAR DISTRICT HAVE ALSO PROMISED PROMPT NOTIFICATION. CONGEN ALSO ENLISTS ASSISTANCE OF SELECTED U.S. CITIZEN PRISONERS REQUESTING THEY INFORM US IMMEDIATELY UPON ARREST OF AMERICANS. WE BELIEVE NOTIFICATION HAS GENERALLY IMPROVED AND ALL LOCAL AUTHORITIES IN OUR CONSULAR DISTRICT ARE WELL AWARE OF OUR DESIRE FOR

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EARLY NOTIFICATION.

B. CONGEN HAS ALWAYS BEEN ALLOWED IMMEDIATE ACCESS TO PRISONERS IN OUR CONSULAR DISTRICT.

C. CLAIMS OF MISTREATMENT ARE DIFFICULT TO ASSESS SINCE LAWYERS REPORTEDLY INSTRUCT CLIENT PRISONERS TO CLAIM MISTREATMENT IN ORDER TO INVALIDATE THEIR TESTIMONY. CLAIMED MISTREATMENT HAS ALWAYS TAKEN PLACE AT TIME OF ARREST. WE HAVE NOT HAD ANY CLAIMED MISTREATMENT DURING IMPRISONMENT. ALL CASES OF CLAIMED MISTREATMENT HAVE BEEN REPORTED TO THE DEPARTMENT AND ALSO BROUGHT TO THE ATTENTION OF APPROPRIATE LOCAL AUTHORITIES WITH REQUEST FOR INVESTIGATION. CONGEN BELIEVES MISTREATMENT DOES OCCUR IN OUR CONSULAR DISTRICT IN SOME CASES INVOLVING SERIOUS CRIMES (USUALLY DRUGS) WHEN INDIVIDUALS ARE FIRST ARRESTED AND ARRESTING AUTHORITIES ARE ATTEMPTING OBTAIN FURTHER INFORMATION REGARDING THEIR OPERATIONS. MOST CASES OF CLAIMED MISTREATMENT IN OUR CONSULAR DISTRICT HAVE COME FROM MEXICAN-AMERICANS WHO DO NOT INFORM AUTHORITIES THEY ARE U.S. CITIZENS.

D. CONGEN HAS RECEIVED SEVERAL CLAIMS OF CONFISCATION OF MONEY AND PERSONAL PROPERTY, AND WE ARE SURE THERE ARE MANY SUCH CASES THAT GO UNREPORTED. THESE LOSSES ARE LIKELY TO OCCUR AT TIME OF ARREST OR IN PRE-TRIAL DETENTION WHEN MONEY AND VALUABLES ARE TURNED OVER TO JAIL AUTHORITIES. A RECENT CASE INVOLVED AN ARRESTED U.S. CITIZEN WHOSE CAMERA AND PISTOL WERE CONFISCATED BY MEXICALI JAIL AUTHORITIES. THE MAN WAS RELEASED BUT COULD NOT OBTAIN THE RETURN OF HIS PISTOL SINCE IT WAS STOLEN BY THE CUSTODIAN IN CHARGE OF HOLDING PRISONER'S VALUABLES. THE CUSTODIAN WAS CHARGED WITH THEFT AND IMPRISONED. THE PISTOL WAS NEVER RECOVERED.

E. THE STANDARD MISCONCEPTION OF PRISONERS AND RELATIVES IS THAT THE U.S. CONSULATE HAS THE RESPONSIBILITY AND AUTHORITY TO OBTAIN THE RELEASE OF THE AMERICAN PRISONER. CONGEN OF COURSE EXPLAINS LIMITED AUTHORITY UNDER WHICH WE OPERATE AND WE BELIEVE MOST PRISONERS AND RELATIVES FULLY UNDERSTAND OUR POSITION FROM MOMENT WE BECOME INVOLVED.

F. MISCONCEPTIONS BY AMERICANS REGARDING MEXICAN LEGAL PROCESSES ARE A SERIOUS PROBLEM. SOME RELATIVES ACT HASTILY BEFORE UNDERSTANDING THE EXACT POSITION OF THE ARRESTED PERSON UNDER MEXICAN UNCLASSIFIED

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LAW AND LOSE THOUSANDS OF DOLLARS TO UNSCRUPULOUS LAWYERS WILLING TO PROMISE EARLY RELEASE WHICH DOES NOT OCCUR. CONGEN HAS HAD CASES WHERE WE SPECIFICALLY ADVISED RELATIVES AGAINST PAYING MONEY BUT OUR ADVICE WAS IGNORED AND THE MONEY LOST. CONGEN HAS NOTED THERE ARE LEVELS OF MISCONCEPTION STEMMING FROM HOPE FOR EARLY RELEASE. UPON ARREST, ACTIONS FIRST TAKEN BY PRISONERS AND RELATIVES ARE SOMETIMES RASH AND UNPLANNED. AS TIME PASSES, BOTH PRISONERS AND RELATIVES BECOME MORE RATIONAL IN THEIR APPROACH

TO THE PROBLEM AND CONSULT MORE CLOSELY WITH LAWYERS, LOCAL AUTHORITIES AND CONGEN.

G. WE HAVE RECEIVED NUMEROUS CLAIMS OF EXTORTION AT TIME OF ARREST AND WE BELIEVE THIS IS RATHER ROUTINE PRACTICE NORMALLY CARRIED OUT BY ARRESTING OFFICERS USUALLY INVOLVING SMALLER AMOUNTS OF MONEY (UP TO ABOUT 200 DLS) BUT SOMETIMES INVOLVING LARGER AMOUNTS IF THE PERSON IS CAUGHT IN THE COMMISSION OF A SERIOUS CRIME AND THERE ARE NO WITNESSES TO THE TRANSACTION. POLICE OFFICERS IN TIJUANA EARN FROM 200-300 DLS. PER MONTH. WHEN THEY ARE ASSIGNED SQUAD CARS THEY MUST PROVIDE ALL GAS AND MAINTENANCE FOR THEIR VEHICLES. THESE EXTRA EXPENSES AND OTHER PERSONAL EXPENSES ARE PAID FOR BY OBTAINING "MORDIDAS" FROM LAW-BREAKERS. WHILE THE MORDIDA DOES CREATE CERTAIN ADVANTAGES FOR THE PRIVILEGED, THOSE WITHOUT FUNDS ARE UNABLE TO TAKE ADVANTAGE OF IT.

H. EXCLUDING THE GENERALLY ACCEPTED MORDIDA USED BY LAWYERS TO OBTAIN THE RELEASE OF THEIR CLIENTS, CONGEN HAS HAD FEW COMPLAINTS OF EXTORTION BY LAWYERS. SINCE WE HAVE VERY EARLY CONTACT WITH AMERICAN PRISONERS ARRESTED IN TIJUANA, WE ARE ABLE TO WARN THEM ABOUT TACTICS OF SOME LAWYERS. UNFORTUNATELY, WE HAVE RECENTLY HAD SOME CASES OF EXTORTION BY LAWYERS IN ENSENADA. WE HAVE ATTEMPTED TO AMELIORATE THE PROBLEM BY SPEAKING IMMEDIATELY WITH THE ATTORNEYS AND ASKING FOR AN EXPLANATION OF THEIR ACTIONS. ONE LAWYER WARNED OUR CHIEF LOCAL EMPLOYEE THAT HE HAD NO RIGHT TO INTERFERE AND THREATENED TO TAKE THE CASE TO THE BAR ASSOCIATION. ANOTHER ATTEMPTED TO KEEP A U.S. CITIZEN INCOMMUNICADO UNTIL HE PAID HIS BILL BUT THE MAN WAS RELEASED WHEN WE INFORMED THE FEDERAL DISTRICT ATTORNEY OF THE ATTORNEY'S ACTIONS. WE BELIEVE THAT EXTORTION BY LAWYERS IN CITIES IN OUR CONSULAR DISTRICT OTHER THAN TIJUANA WILL CONTINUE BUT WILL ENDEAVOR TO MAKE IT KNOWN OUR INTENTION TO FIGHT AGAINST UNJUST FEES OR ANY

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FM AMCONSUL TIJUANA

TO SECSTATE WASHDC PRIORITY 1195

INFO AMEMBASSY MEXICO

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FORM OF EXTORTION PRACTICED BY LAWYERS.

I. CONGEN HAS NOT NOTED ANY SENTENCING DISCRIMINATION AGAINST AMERICANS IN OUR CONSULAR DISTRICT.

J. DUE TO LACK OF FUNDS AND FACILITIES, DETENTION CENTERS IN OUR CONSULAR DISTRICT HAVE LIMITED PROVISIONS FOR MEDICAL AND DENTAL TREATMENT. MOST PRISONERS ARRANGE AND PAY FOR THEIR OWN MEDICAL TREATMENT. IN EMERGENCY CASES PRISONERS ARE SENT TO CIVIL HOSPITALS FOR TREATMENT BUT THESE HOSPITALS ARE SUB-STANDARD AND SOME HAVE MENTIONED THEY WOULD RATHER TAKE THEIR CHANCES WITH THEIR MALADIES THAN BE TAKEN TO A CIVIL HOSPITAL. LA MESA PRIFON IN TIJUANA IS PRESENTLY BEING VISITED REGULARLY BY A DENTIST WHO PROVIDES ADEQUAT DENTAL TREATMENT.

K. CONOFF IS VISITING ALL AMERICAN PRISONERS IN OUR CONSULAR DISTRICT AT LEAST ONCE A MONTH. DAILY VISITS ARE MADE TO TIJUANA MUNICIPAL JAIL AS WELL AS TO STATE AND FEDERAL DISTRICT ATTORNEY'S OFFICES TO DETERMINE IF NEW AMERICANS HAVE BEEN ARRESTED.

L. CONGEN HAS NOT BEEN INFORMED OF ANY MISTREATMENT OF U.S. VISITORS TO PRISONS IN OUR CONSULAR DISTRICT.

M. CONGEN HAS HAD NO CASES OF EXTENDED TRIAL DETENTION IN OUR CONSULAR DISTRICT.

N. WHEN ELIGIBLE, "FIANZAS" ARE GRANTED AND THE PRISONER RELEASED  
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WITHOUT DIFFICULTY. A POINT OF INTEREST IS THAT WHEN AMERICAN PRISONER IS RELEASED ON A FIANZA HE IS SUBJECT TO RECALL BY THE COURT AT ANY TIME AND MUST SIGN THE "BAIL BOOK" EACH WEEK. HOWEVER, POBLACION NORMALLY ORDERS THEIR DEPORTATION THEREBY DENYING THEM THE RIGHT TO DEFEND THEMSELVES AGAINST THE ACCUSATION. NEEDLESS TO SAY, ONLY A FEW HAVE RETURNED TO FULFILL THE REQUIREMENTS OF LAW.

O. ALTHOUGH COMMISSIONED WORK IS GENERALLY UNAVAILABLE IN INSTITUTIONS IN OUR CONSULAR DISTRICT, PRISONERS ARE NORMALLY GIVEN CREDIT FOR COMMISSIOND WORK IF THEY HAVE OBSERVED GOOD BEHAVIOR.

P. APPEALS IN OUR CONSULAR DISTRICT ARE NORMALLY HANDLED EXPEDITIOUSLY BY THE COURTS, HOWEVER, WHERE THERE IS A CASE INVOLVING SEVERAL DIFFERENT PEOPLE WHO HAVE DIFFERENT LAWYERS, THE CASE MAY DRAG ON UNTIL THE JUDGE HAS RECEIVED EVIDENCE AND STATEMENTS FROM ALL PARTIES. CONGEN HAS ALSO NOTED THAT APPEALS SENT TO

FEDERAL APPEALS COURT IN HERMOSILLO TEND TO BE LENGTHY. WE HAVE BEEN INFORMED THAT HERMOSILLO'S APPEALS COURT CALENDAR IS EXTREMELY CROWDED SINCE THEY SERVICE STATES OF BAJA CALIFORNIA, SONORA AND SINALOA.

Q. CONGEN HAS NOT NOTED ANY CASES IN WHICH PLAUSIBLE ALLEGATIONS OF INNOCENCE WERE MADE. IF SUCH ALLEGATIONS ARE RECEIVED, CONGEN WILL INVESTIGATE THEM THOROUGHLY AND TAKE APPROPRIATE ACTION.

2.- A. CONGEN HAS BEEN INFORMED BY ALL LOCAL AUTHORITIES THAT ATTORNEY GENERAL'S INSTRUCTIONS REGARDING NOTIFICATION WERE RECEIVED. WHILE NOTIFICATION HAS IMPROVED IN OUR CONSULAR DISTRICT, WE BELIEVE CONTINUED EFFORT MUST BE MADE TO REMIND AUTHORITIES AT ALL LEVELS OF IMPORTANCE WE PLACE ON EARLY NOTIFICATION.

B. CONGEN HAS HAD NO PROBLEMS IN DEALING DIRECTLY WITH PRISONERS AND THEIR RELATIVES.

C. CONGEN UTILIZES SERVICES OF SELECT AMERICAN INMATES TO VERIFY WELLBEING OF PRISONERS UNWILLING TO SPEAK TO CONOFF. PRISONER/ CONOFF RELATIONS ARE CORDIAL AND ONLY ONE PRISONER HAS REFUSED TO SPEAK TO CONOFF.

D. DUE TO DIFFERENCE IN MEXICAN LAW AND ITS APPLICATION, WE SUG-  
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GEST IT MAY BE ADVISABLE TO PROVIDE SOME TYPE OF FORMAL TRAINING FOR CONOFFS ASSIGNED TO MEXICO WHICH WOULD BETTER ENABLE THEM TO ASSIST PRISONERS AND THEIR RELATIVES AND DEAL WITH UNSCRUPULOUS LAWYERS. BELIEVE SUCH TRAINING SHOULD INCLUDE EXPLANATION OF STRUCTURE OF LEGAL SYSTEM, SALIENT SECTIONS OF LAW APPLICABLE TO OUR OPERATIONS, ACCEPTED PRACTICES AND CUSTOMS CONTRARY TO LAW AS WELL AS BRIEF STUDY OF MEXICAN PRISON SYSTEM. CONGEN DOES NOT BELIEVE STAFF SIZE OR BUDGET SHOULD BE INCREASED UNLESS DEPARTMENT WISHES MORE DETAILED COVERAGE OF EACH CASE.

3.- AS RESULT OF EMBASSY AND CONGEN ACTIONS, WE HAVE REALIZED LIMITED BUT GRATIFYING IMPROVEMENTS IN PRISONER PROBLEM. DUE TO FACT WE ARE DEALING WITH ISSUE THAT EXTENDS DEEPLY INTO MEXICAN CULTURE AND SOCIETY, WE DOUBT THAT ELEVATING PRIORITY OF PRISONER ISSUE WOULD RESULT IN SUBSTANTIALLY GREATER IMPROVEMENTS.  
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